UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

THOMAS E. PEREZ, Secretary of Labor, United States Department of Labor Plaintiff, v. FIRST BANKERS TRUST SERVICES, INC., VINCENT DIPANO, and the SJP GROUP, INC. EMPLOYEE STOCK OWNERSHIP PLAN Defendants.	No. 3:12-cv-04450-MAS-DEA

FINAL JUDGMENT AND BAR ORDER

This matter comes before the Court by Defendant Vincent J. Di Pano's ("Mr. Di Pano") motion seeking entry of a Bar Order. (ECF Nos. 118, 120.)

WHEREAS, Plaintiff Thomas E. Perez, Secretary of Labor, United States Department of Labor ("Secretary") asserted claims against Mr. Di Pano, among others;[1]

WHEREAS, the Secretary and Mr. Di Pano have submitted a Partial Consent Order And Judgment As To Secretary's Claims Against Defendant Di

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[1] The other currently named Defendants are First Bankers Trust Services, Inc. ("FBTS") and the SJP Group, Inc. Employee Stock Ownership Plan ("Plan"). The Secretary has named the Plan as a Defendant only for the purpose of ensuring complete relief among the parties under Federal Rule of Civil Procedure 19. *See* Complaint ¶ 4. (Dkt. No. 1.)

Pano ("Consent Order"), (Dkt. No. 117), in order to make a full and final settlement and resolution of all disputes and differences between the Secretary and Mr. Di Pano;

WHEREAS, the Consent Order was expressly conditioned upon the entry by this Court of the Bar Order;

WHEREAS, the Court heard oral argument, placed its decision on the record, and aindicated that an order would issue;

IT IS HEREBY ORDERED AND ADJUDGED as follows:

1. FBTS is hereby permanently barred and enjoined from presenting in this action, or in any other action, proceeding, administrative agency or any other forum, against Mr. Di Pano any claim for contribution or indemnification, however denominated and regardless of the allegations, facts, law, theories, or principles, that arise from or relate in any way to the Secretary's claims released in the Consent Order, including, but not limited to, the claims and allegations contained in the Secretary's Complaint. Such claims are precluded to the full extent provided by federal law.

2. Mr. Di Pano is hereby barred and enjoined from presenting in this action or in any other action, proceeding, administrative agency or any other forum, against FBTS any claim for contribution or indemnification, however denominated and regardless of the allegations, facts, law, theories, or principles,

that arises from or relates in any way to the Secretary's claims released in the Consent Order, including, but not limited to, the claims and allegations contained in the Secretary's Complaint. Such claims are precluded to the full extent provided by federal law.

3. Because FBTS and Mr. Di Pano are barred from asserting any claims for contribution or indemnification as specified in (1) and (2) above, any judgment rendered in favor of the Secretary (or any of the Secretary's successors) in this action against FBTS that arises from or relates in any way to the Secretary's claims released in the Consent Order including, but not limited to, the claims and allegations contained in the Secretary's Complaint, shall be reduced by an amount equal to the greater of (a) the amount that represents the proportional share of losses or damages that are attributable to Mr. Di Pano, if any, and (b) the total amount that Mr. Di Pano is required to pay as restitution to the Plan pursuant to the Consent Order ($2,045,454.54). Notwithstanding the foregoing, nothing herein shall preclude any argument by the Secretary, Mr. Di Pano, or FBTS that ERISA does not provide a right of contribution or indemnity.

4. Nothing herein shall be construed as indicating that ERISA provides contribution or indemnity rights among fiduciaries.

5. There being no just cause for delay, this Final Judgment and Bar Order shall be entered forthwith.

6. As against Mr. Di Pano only, this action, including all claims brought by the Secretary against Mr. Di Pano, is hereby DISMISSED with prejudice and wihout costs to either party.

SO ORDERED:

DATED: 4/20/16

[signature]

HONORABLE MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE